

DAC\$ #26

PTO/SB/64 (08-00)  
Approved for use through 10/31/2002. OMB 0651-0031  
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
P-68422-US

First named inventor: **VOLOKH, Vladimir**

Application No.: **09/273,468**

Group Art Unit: **3722**

Filed: **March 22, 1999**

Examiner: **TSAI, H.**

Title: **MILLING CUTTER**

**RECEIVED**  
**SEP 02 2003**  
**OFFICE OF PETITIONS**

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extension of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ **1300** (37 CFR 1.17(m))

Please charge any fees associated with this petition to deposit account No. 05-0649.

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of **AMENDMENT AFTER FINAL OFFICE ACTION** (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_
- ☐ is enclosed herewith.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

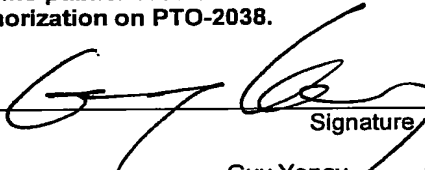
**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

August 27, 2003

Date

Telephone

Number: ( 212 ) 632-3480

  
Signature

Guy Yonay 52,388

Typed or printed name

Eitan, Pearl, Latzer & Cohen Zedek, LLP.

Address

10 Rockefeller Plaza, Suite 1001  
New York, New York 10020

- Enclosures: ☐ Fee Payment  
☐ Reply  
☐ Terminal Disclaimer Form  
☐ Small Entity Status Form  
☒ Additional sheets containing statement establishing unintentional delay  
☒ Amendment After Final Office Action including Appendices A, B, and C  
☒ Request for Continued Examination

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.  
☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

\_\_\_\_\_  
Date

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Typed or printed name of person signing certificate



Attorney Docket No.: P-68422-US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE** **RECEIVED**

SEP 02 2003  
OFFICE OF PETITIONS

Applicant(s): VOLOKH, Vladimir

Examiner:

TSAI, H.

Serial No.: 09/273,468

Filed: March 22, 1999

Title: MILLING CUTTER

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**STATEMENT ESTABLISHING UNINTENTIONAL DELAY IN SUPPORT OF A  
PETITION UNDER 37 CFR 1.137 FOR REVIVAL OF AN UNINTENTIONALLY  
ABANDONED APPLICATION**

Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Statement Establishing Unintentional Delay is being filed together with and in support of a Petition for Revival of an Unintentionally Abandoned Application under 37 CFR 1.137(b). An Amendment in response to the Office Action dated October 22, 2001 issued by the United States Patent and Trademark Office in connection with the above-identified Application and a Request for Continued Examination under 37 CFR 1.114 are being submitted concurrently herewith.

A final Office Action in the above Application was mailed on October 22, 2001 setting a three month shortened statutory period for reply. When no response was received by the United States Patent and Trademark Office by the absolute statutory deadline of April 22, 2002, the Application was regarded as abandoned under 35 U.S.C. 133. According to the Notice of Abandonment, dated September 10, 2002, the Application was abandoned due to failure to timely reply to the October 22, 2001 Office Action.

As further explained below, applicants' entire delay in filing the reply to the October 22, 2001 Office Action was unintentional. Applicant intended to reply to the October 22, 2001 Office Action before the April 22, 2002 deadline, however, the failure to reply resulted

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FILED: March 22, 1999  
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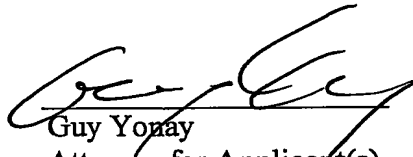
from a miscommunication between applicants' attorneys in the United States and in Israel. Specifically, it was understood by both attorneys in the United states and in Israel that a reply to the Office Action was to be submitted on April 22, 2002. Due to a mutual misunderstanding, applicants' attorney in Israel believed that applicants' attorney in the United States intended to timely submit the response, while applicants' attorney in the United States believed that applicants' attorney in Israel intended to timely submit the response. Consequently, the response was unintentionally not filed and the status of the response to the Office Action was marked "completed" on the docketing system of applicants' attorney in Israel. Due to this unfortunate sequence of events, both applicants' attorney in Israel and applicants' attorney in the United States believed the response to the Office Action was timely filed by April 22, 2002.

Applicant believes the pending claims in the Application are deemed to be allowable over the references relied upon in the October 22 Office Action, as described in the Remarks to the present Amendment. Applicant considers obtaining a Patent for the pending claims to be of sufficient breadth and value to justify the financial expense of obtaining a Patent for these pending claims, and has continually sought to obtain such Patent from the date of filing of the Application until filing the Petition For Revival of the Application. Applicant asserts the entire delay between becoming aware of the abandonment and the filing of this Petition for Revival was unintentional and is not a result of any intent to defer payment of patent fees or any other patent prosecution expenses. This assertion is supported by applicants' persistence during prosecution to assert the distinctions between the subject matter of the pending claims and the references cited, and to put the application in condition for allowance.

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In view of the above, applicant respectfully requests that the Petition for Revival of this Application be granted and that prosecution of the Application be resumed based on the Amendment and Request for Continued Examination filed concurrently herewith.

Respectfully submitted,

  
Guy Yonay  
Attorney for Applicant(s)  
Registration No. 52,388

Dated: August 27, 2003

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